



Crl.MP(MD)No.2237 of 2024 in Crl.A(MD)No.150 of 2024

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G.ILANGOVAN, J

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioners in Special SC No.108 of 2023, dated 02/01/2024 passed by the Sessions Judge, Special Court for POCSO Act cases, Dindigul and enlarge them on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution in brief:-

The victim girl was born on 09/08/2024. A1 is the Principal of a private college called 'Surabi Nursing College'. A2 is the Lecturer-cum-Warden of the College. The victim girl was staying the hostel. On 15/09/2021 on the eve of welcome address day function to the first year college students, the first petitioner misbehaved with her with the help of the other accused. That continued for several days on several occasions. Not only the victim girl, but also several such students were subjected to sexual harassment. Upon the occurrence, a case in Crime No. 767 of 2021 was registered by the respondent police for the offences under sections 506(i) IPC and 9(f) r/w 10 and 18, 16 r/w 17 of the POCSO Act, 2012.



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3.After completing the investigation, the respondent filed a final report and it was taken cognizance by the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act cases, Dindigul, in Special SC No.108 of 2023.

4.Before the trial court, on the side of the prosecution, 29 witnesses were examined and 19 documents were marked. On the side of the accused, no oral and documentary evidence was adduced.

5.At the conclusion of the trial process, the trial court convicted and sentenced the accused persons as detailed hereunder-

S.No.	Charge	Conviction and sentence
Accused No.1	Section 9(1) r/w 10 of the POCSO Act	7 years RI and to pay a fine of Rs.75,000/- in default to undergo one year SI
Accused No.2	Section 16 r/w 17 of the POCSO Act	5 years RI and to pay a fine of Rs.25,000/- in default to undergo 6 months SI

6.Challenging the conviction and sentence, this appeal is preferred by the appellants/A1 and A2. Pending appeal, this criminal miscellaneous petition was taken out by the petitioners/A1 and A2 seeking suspension of sentence.



7.Heard both sides.

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8.The learned counsel appearing for this petitioner would submit that the victim girl was aged about 17 years at the time of the occurrence; There was a delay of two months in lodging the complaint; there is political rivalry which caused the lodging of the false complaint; this petitioner was acquitted in the earlier case, which was registered for a similar offence.

9.Per contra, the learned Additional Public Prosecutor would submit that there are other victims numbering about 3 suffered such harassment at the hands of this petitioner/A1. So, no indulgence need be shown.

10.Perusal of the records shows that this petitioner also one of the petitioners in Crl.MP(MD)No.2237 of 2024 in Crl.A(MD)No.150 of 2024. This court after considering the overtact attributed against this petitioner/A1, thought it fit to dismiss the petition.

11.By order, dated 01/03/2024, this petition was allowed in respect of the second petitioner/A2 by granting suspension of sentence. But there is no indication as to whether the petition was dismissed against this petitioner/A1 or kept pending or under consideration. On



that account, the learned counsel appearing for this petitioner/A1 wants to argue the matter, he was also heard.

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12.As mentioned above, there are totally three victims. Simply because, it is stated by this petitioner that there is political rivalry which caused foisting of the case, absolutely, the materials does not indicate the above said argument. It is a matter for consideration in the main appeal.

13.The victims were specific in their evidence with regard to the sexual harassment made by this petitioner. This petitioner was in the position of a father like, alleged to have misbehaved with the girl students. It is contended that the age of the victim girl was not properly established by the prosecution. But it is a matter for consideration in the appeal. As of now stands on records, I am of the considered view that it is not a fittest case to exercise the discretion in favour of this petitioner. Simply because, in the earlier case he was acquitted, he cannot expect the very same judgment in this matter also. Everycase is depending upon its own facts and circumstances.



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14.As stated above, it appears that three cases were filed against this petitioner. Out of the three cases in one case he was acquitted, another case he was convicted and other was not on record. Now whatever it may be, it is not the fittest the case to enlarge this petitioner/A1 on bail by suspending the sentence.

15.In the result, this criminal miscellaneous petition is **dismissed**.

05/09/2024

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Sessions Judge,
Special Court for POCSO Act cases,
Dindigul.
- 2.The Inspector of Police,
Thadikombu Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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